

REMARKS/ARGUMENTS

Upon entry of this amendment, claims 14 and 16 will be canceled without prejudice or disclaimer of the subject matter recited therein. Claims 1-11 and 13 will remain pending, with claims 1 and 10 being independent claims.

In order that the record is complete, Applicants note that in claim 13, line 2, the deleted “an” has been removed from the claim.

Reconsideration and allowance of the application are respectfully requested.

Response To Indication Of Allowable Claims And Rejection Under 35 U.S.C. 112, First Paragraph

The Office Action indicates that all 112 rejections, prior art rejections and obviousness-type double patenting rejections made in the previous Office Action have been obviated; that claims 1-11 and 13 are allowed; and that upon further consideration a new ground of rejection is applied to claims 14 and 16.

In particular, claims 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as the rejection asserts that the claims, while being enabled for Alzheimer’s disease and non-insulin dependent diabetes, does not reasonably provide enablement for any and all neurodegenerative diseases embraced in the claims.

In response, Applicants express appreciation for the indication that claims 1-11 and 13 are allowed.

Additionally, by the amendment herein, claims 14 and 16 have been canceled without prejudice or disclaimer of the subject matter recited therein, and without expressing any agreement or acquiescence with the rejection of record. In particular, Applicants preserve their right to file

one or more continuation and/or divisional applications directed to the canceled subject matter and to present arguments against the rejection in the event that the rejection is repeated therein.

While claims 14 and 16 have been canceled to advance prosecution of the application, Applicants submit that the rejection is without appropriate basis because the rejection includes inadequate support for the rejection. For example, the supporting arguments for the rejection are not clear, because the rejection contends that the claims are not enabled for “treating and/or preventing any or all forms of cancer, infections, inflammatory and autoimmune diseases in general”, but the rejection does not indicate how this applies to the subject matter recited in the rejected claims. Moreover, the rejection improperly asserts that the claims are directed to any neurodegenerative disease when the claims recite certain diseases. Still further, the rejection uses supporting documents having publication dates of 1996 and 1998 to improperly show the state of the art when the PCT application was filed in 2004 and has a priority date in 2003. The rejection does not establish that such documents should be considered to be the state of the art at the time of Applicants’ invention. Accordingly, at least for these reasons, the rejection is without appropriate basis.

In any event, as the presently pending claims have been indicated to be allowed, this ground of rejection should be withdrawn, and the Notices of Allowance and Allowability should be mailed.


CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejection of record, and confirm allowance each of the pending claims.

Applicants therefore respectfully request that an indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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